

AMENDMENT AND STATEMENT  
U.S. Appln. No. 09/497,515

**REMARKS**

Upon entry of the claim amendments, Claims 34-67 will be all the claims pending in the application. Each of Claims 1-33 has been canceled.

Counsel wishes to express his thanks to the examiner for the courtesies extended at the interview on January 5, 2006. It is believed that the interview has materially advanced the prosecution of this application.

Of the newly added claims, Claims 34 and 51 are independent.

Consistent with the discussion held during the interview, new independent Claims 34 and 51 track, respectively, previously pending Claims 1 and 3, except that new Claims 34 and 51 also recite that (i) the catalyst layer comprises first pores and (ii) the polymer of the claimed electrode has numerous second pores therein.

Claims 35-50, each of which depends from Claim 34, and Claims 52-67, each of which depends from Claim 51, recite subject matter previously recited in the previously pending claims.

No new matter has been added.

**I. STATEMENT OF SUBSTANCE OF INTERVIEW**

The Statement of Substance of Interview is as follows:

- (A) No exhibit was shown nor was a demonstration conducted.
- (B) Each of the previously pending claims was discussed.
- (C) The Fukuoka and Cabasso documents were discussed.
- (D) Amending the independent claims to recite that (i) the catalyst layer comprises first pores and (ii) the polymer of the claimed electrode has numerous second pores therein was discussed.
- (E) Three principal arguments were presented.

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First, the examiner and counsel agreed that there had been an oversight with respect to the rejection of now-canceled Claims 22 and 33 under 35 U.S.C. § 112. The examiner agreed to withdraw the §112 rejection upon the filing of a response, as indicated in the Interview Summary mailed January 18, 2006.

Second, the examiner and counsel agreed that amending the independent claims to recite that (i) the catalyst layer comprises first pores and (ii) the polymer of the claimed electrode has numerous second pores therein may serve to distinguish Applicant's electrode for a fuel cell from the disclosure of Fukuoka.

Third, it was argued that Cabasso does not disclose the presence of the polymer in pores of the catalyst layer. The examiner agreed to reconsider Cabasso's disclosure.

- (F) No other pertinent matters were discussed.
- (G) The examiner agreed to reconsider all issues upon the filing of a response.

**II. REJECTION UNDER 35 U.S.C. § 112**

Claims 22 and 33 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Applicants respectfully traverse.

As indicated in the Interview Summary mailed January 18, 2006, the examiner agreed to withdraw the §112 rejection upon the filing of this response.

Furthermore, Claims 22 and 33 have been canceled.

Withdrawal of the §112 rejection is requested.

**III. REJECTION UNDER 35 U.S.C. § 102/§103**

Claims 1, 3, 6, 10, 21-25, and 29-33 are rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Fukuoka.

Applicants respectfully traverse.

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Claims 1-33 have been canceled and replaced with new Claims 34-67.

Of the newly added claims, Claims 34 and 51 are independent and recite that (i) the catalyst layer comprises first pores and (ii) the polymer of the claimed electrode has numerous second pores therein.

Fukuoka does not disclose, teach or suggest the above feature of the independent claims.

Accordingly, withdrawal of the §102/§103 rejection based on Fukuoka is requested.

**IV. REJECTION UNDER 35 U.S.C. § 102**

Claims 1, 3, 6, 10, 21-25, and 29-33 are rejected under 35 U.S.C. § 102(b) as being anticipated by Cabasso.

Applicants respectfully traverse.

New independent Claim 34 recites that a polymer having numerous second pores therein exists either (i) in a portion of first pores of a catalyst layer or (ii) both in a portion of the first pores of the catalyst layer and on a surface of the catalyst layer. New independent Claim 51 recites that a polymer having numerous second pores therein exists either (i) in a portion of first pores of a catalyst layer or (ii) both in a portion of the first pores of the catalyst layer and in an inside portion of a substrate.

Cabasso does not disclose the presence of the polymer in pores of the catalyst layer.

Accordingly, withdrawal of the §102 rejection based on Cabasso is requested.

**V. REJECTIONS UNDER 35 U.S.C. § 103**

Claims 7-9 and 26-28 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fukuoka. Also, Claims 7-9 and 26-28 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cabasso.

Applicants respectfully traverse each of the §103 rejections.

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Each of Fukuoka and Cabasso fails to disclose, teach or suggest one or more features of new independent Claims 34 and 51, for reasons noted herein above.

Furthermore, Claims 7-9 and 26-28 have been canceled, rendering moot the §103 rejections.

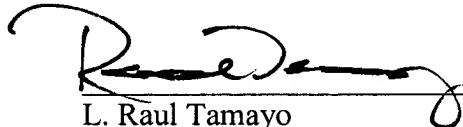
Withdrawal of the §103 rejections is requested.

**VI. CONCLUSION**

Reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



L. Raul Tamayo  
Registration No. 47,125

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE  
23373  
CUSTOMER NUMBER

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